

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

|                                  |   |                                  |
|----------------------------------|---|----------------------------------|
| DAVID E. KIDD,                   | : | Case No. 3:18-cv-131             |
| Petitioner,                      | : |                                  |
| - vs -                           | : | District Judge Thomas M. Rose    |
|                                  | : | Magistrate Judge Michael R. Merz |
| WARDEN, Chillicothe Correctional | : |                                  |
| Institution,                     | : |                                  |
| Respondent.                      | : |                                  |

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (ECF No. 22), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is ordered that Petitioner's Motion for Relief from Judgment filed February 22, 2019 (ECF No. 21) be DENIED. Petitioner is also DENIED a certificate of appealability and the Court hereby certifies to the United States Court of Appeals that an appeal would be objectively frivolous and therefore should not be permitted to proceed in forma pauperis.

March 19, 2019

\*/Thomas M. Rose

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Thomas M. Rose  
United States District Judge